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June 12, 2003

The Honorable Tom Ridge
Secretary, Department of Homeland Security
Washington, DC 20528

Dear Secretary Ridge:

Thank you for your June 9, 2003 response to the questions I raised regarding the security of air cargo being shipped on passenger planes at the May 20, 2003 hearing of the Select Committee on Homeland Security.

As you know, 22 percent of all air cargo is shipped on passenger planes, and none of this cargo is screened for explosives or other tools of terror like biological, chemical, or radiological weapons. I am disappointed that the Department has only recently begun to formally evaluate the costs and benefits of screening air cargo. It is unacceptable that the Department's policy recommendations to address this gaping hole in our nation's homeland security strategy will not be made by the TSA until the Fall of 2003. That will be two years after the terrorist attacks of September 11, 2001.

I note that at our hearing on May 20, you acknowledged the "deficiency" in our passenger plane system, but just 16 days later, the Department's Assistant Secretary for Information Analysis, Mr. Paul Redmond, conceded that he was "unaware" that air cargo placed on passenger planes was not being screened and agreed with me that it was a serious potential terrorist threat. As you noted in your response, the Aviation and Transportation Security Act requires the screening by federal employees of all "property, including United States mail, cargo, carry-on, and checked baggage and other articles, that will be carried aboard a passenger aircraft." (P.L. 107-71, Sec. 44901 (a)). The House bill on the Aviation and Transportation Security Act stated that "a system must be in place as soon as possible to screen cargo transported in passenger aircraft." The Conference Report concludes, "An alternate system of screening cargo should also be established" (House Conference Report 107-296, 11/16/2001, p. 604) (emphasis added).

In fact, consideration of the process required to physically screen air cargo loaded onto passenger aircraft was begun at least 18 years ago, following the downing of the Air India airplane blown up between England and Canada. It was re-considered 15 years ago after Pan Am Flight 103 was blown up over Lockerbie, Scotland. It was considered yet again after the May 1996 ValuJet crash and the July 1996 TWA Flight 800 explosion. Following these crashes, the White House Commission on Aviation Safety and Security (Gore Commission), recommended that the Federal Aviation Administration (FAA) implement a comprehensive plan to address the threat of

explosives and other threat objects in cargo.” (Appendix B, 3.4, Gore Commission Report, 2/12/1997) The fact that, despite years of awareness of the problem and numerous expert reviews of potential solutions, we are still tolerating a gaping hole in our passenger plane security 21 months after September 11, 2001 is shocking to the public and, in my view, an intolerable situation.

Furthermore, the Act states that “a system must be in operation to screen, inspect, or otherwise ensure the security of all cargo... as soon as practicable” after the law was enacted. (P.L. 107-71, Sec 44901(f)) You indicate that screening of cargo was a secondary requirement in the law, after passenger and baggage screening. This misses the point. We are talking here about securing passengers against the vulnerability created by allowing cargo on passenger planes. As demonstrated by the series of air crashes cited above, explosions that occur in freight stored as cargo beneath passenger planes can prove just as deadly as bombs that are detonated within the passenger compartment or explosions in passenger luggage. If cargo were not carried on passenger aircraft, this issue would lose much of its urgency. But as long as the air carriers insist on carrying cargo on passenger planes, we have no choice but to insist on the same level of security for passenger-plane cargo as we provide for passenger-plane luggage.

You also refer to “logistical and technological limitations” for large scale deployment of machines to screen cargo on passenger airplanes. As you know, similar reservations were expressed as a reason not to screen 100 percent of checked baggage, yet the TSA met the statutory deadline of December 2002, only one year from the enactment date of the Aviation and Transportation Security Act. For purposes of screening 100 percent of cargo destined for passenger planes, the technology is available, the equipment is tested, and a pool of qualified screeners exists. As a result of the TSA’s excellent work in meeting the statutory deadlines, there should be no question that it is up to the task of screening 100 percent of cargo on passenger planes.

I understand that there is much work to be done in securing our passenger aviation system. However, allowing passengers to board a plane that is also carrying cargo that has not been screened runs counter to every American’s assumption with regard to the care that is being taken to secure passenger airplanes against terrorists. All passengers show their identification, ticket, contents of their carry-ons, and submit their luggage to computer or hand searches. However, once passengers board the plane, they are seated on top of a cargo hold that contains cargo that has never been screened and never been physically inspected. This must stop.

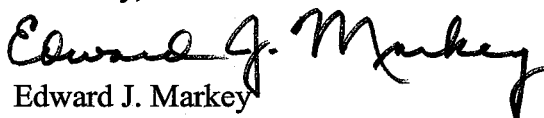
In light of the above, and with specific reference to the points raised in your letter to me, I would appreciate your assistance and cooperation in providing responses to the questions:

1. You have said that only “known shippers” are allowed to ship cargo on passenger planes, and all “unknown shippers” are redirected to cargo-only planes. This would be consistent with my understanding that all cargo shipped on passenger planes is assumed NOT to be “high risk” so long as it comes from a “known shipper.” What percent of passenger plane cargo from “known shippers” has been identified as “high-risk,” and on what basis was the risk level determined?

2. What are the criteria used to qualify for "known shipper" status and how many, if any, "known shippers" are inspected or verified by the Department of Homeland Security? How often are shippers inspected or verified by the Department? Has any "known shipper" ever been involuntarily cut from the program? If so, why?
3. A December 2002 General Accounting Office Report has recommended that the Department "implement a comprehensive plan to address the threat of explosives and other threat objects in cargo" (GAO-03-344). According to your letter, the Department began analyzing this problem in April 2003. What caused the Department's delay in addressing the air cargo loophole?
4. Security experts generally dismiss the adequacy of the "known shipper" program because the system is inherently susceptible to infiltration at hundreds of points as a piece of cargo makes its way from the shipper to the freight-forwarder to the cargo terminal. How many individuals typically come into contact with cargo being shipped via passenger airplanes? How many of those individuals must routinely submit to rigorous background, criminal, and national security checks?
5. The Department's recent downsizing of 3,000 TSA screeners and planned downsizing of another 3,000 screeners this summer suggests that we have the beginnings of a pool of trained employees who are ready to tackle the task at hand. Airport security directors with whom I have spoken are appalled that they are losing these employees while the cargo screening issue remains unaddressed. How can we expect an already depleted screening force to undertake the new responsibilities to screen cargo on passenger planes?

Please contact me or Israel Klein of my staff at 202-225-2836 if you have any further questions on this matter.

Sincerely,


Edward J. Markey